

Message Text

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ACTION EA-10

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FM AMEMBASSY KUALA LUMPUR

TO SECSTATE WASHDC 9953

INFO AMEMBASSY CANBERRA

AMEMBASSY SINGAPORE

CONFIDENTIAL KUALA LUMPUR 2796

E.O. 11652: XGDS-1, DECLAS MAY 19, 1979

TAGS: EINV ENRG MY

SUBJ: U.S. SUBSIDIARY HAS PROBLEMS WITH BOTH OPIC INVESTMENT

GUARANTEE AND PETROLEUM AMENDMENT ACT

1. ON MAY 16, 1975, COMATT MET WITH HARRY J. WARREN,
GENERAL MANAGER AUSTRALIAN CARBON BLACK PTY. LTD. (ACB)
TO DISCUSS PROBLEMS COMPANY IS HAVING IN MALAYSIA.
COMPANY IS A WHOLLY OWNED SUBSIDIARY OF TWO U.S.
COMPANIES -- CABOT CORPORATION AND ASHLAND CHEMICAL
COMPANY. ACB IS SETTING UP MANUFACTURING SUBSIDIARY
IN MALAYSIA CALLED MALAYSIAN CARBON SDN. BHD.

2. ACB FACING TWO SEPARATE PROBLEMS IN MALAYSIA. FIRST
CONCERNS OPIC INSURANCE ON INVESTMENT. GOM HAS ESSEN-
TIALLY PUT IN ABEYANCE COMPANY'S APPLICATION FOR COV-
ERAGE ON GROUNDS THAT INVESTMENT NOT ORIGINATING IN
U.S. BUT IN AUSTRALIA. DEPARTMENT WILL NOTE THAT THIS
IS DIRECTLY RELATED TO RULING MADE ON MOTOROLA INVEST-
MENT COMING THROUGH HONG KONG. EMBASSY HAS DISCUSSED
THIS QUESTION WITH MINISTRY OF TRADE AND INDUSTRY
OFFICIALS. SEPTEL REGARDING THESE DISCUSSIONS FOLLOWS.

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3. SECOND MAJOR PROBLEM CONCERNS PETROLEUM AMENDMENT

ACT RECENTLY PASSED BY PARLIAMENT. IN WARREN'S VIEW, MALAYSIAN CARBON WILL FALL UNDER PROVISIONS OF LAW REQUIRING COMPANY TO EITHER PROVIDE MANAGEMENT SHARES OR TO OBTAIN EXEMPTION. CABOT AND ASHLAND COMPANY OFFICERS IN U.S. HAVE INSTRUCTED WARREN TO APPLY TO PETRONAS FOR AN EXEMPTION. U.S. PRINCIPALS HAVE ALSO ADVISED WARREN THAT IF NO EXEMPTION FORTHCOMING, HE SHOULD ORDER IMMEDIATE HALT TO CONSTRUCTION WORK BEING DONE, UNDER CONTRACT, AT COMPANY'S SITE IN PORT DICKSON. WARREN QUITE CONCERNED ABOUT THIS COURSE OF ACTION BECAUSE OF POTENTIAL LOSSES TO COMPANY RESULTING FROM BREAKING CONTRACTS.

4. MALAYSIAN CARBON'S LOCAL ATTORNEYS HAVE STRONGLY

ADVISED THAT COMPANY NOT APPLY FOR EXEMPTION. THEY ARGUE THAT SUCH ACTION WOULD REPRESENT CLEAR PRECEDENT AND WOULD IMPLY COMPLETE ACCEPTANCE OF ACT'S VALIDITY. WARREN AGREES AND IS SO INFORMING U.S. PRINCIPALS. HE ARGUES THAT BEST TIME TO MAKE DECISION WILL BE DURING MEETING OF COMPANY'S BOARD OF DIRECTORS TO BE HELD IN KUALA LUMPUR IN EARLY JULY. THIS WILL ENABLE COMPANY TO FINISH PRESENT CONSTRUCTION WORK, THUS HAVING COMPLETED ASSET ON HAND THAT COULD BE SOLD IF COMPANY THEN DECIDES TO PULL OUT. IT WILL ALSO AVOID ANY ACTION PRIOR TO UNITED MALAY NATIONAL ORGANIZATION (UMNO) CONVENTION IN LATE JUNE. WARREN BELIEVES PETRONAS MAY BE EASIER TO DEAL WITH AFTER UMNO CONVENTION OVER.

5. COMMENT. EMBASSY BELIEVES THAT ADVICE GIVEN BY COMPANY'S LOCAL ATTORNEYS IS SOUND. ANY ACTION NOW BY COMPANIES IN PETRO-CHEMICAL FIELD THAT GIVES PETRONAS, AND OTHER ELEMENTS IN GOM, IDEA THAT REACTION TO MANAGEMENT SHARES WILL DISSIPATE SOON WOULD UNDERMINE POSSIBILITY OF RESOLUTION ON MORE FAVORABLE TERMS. COMATT RECOMMENDED THAT WARREN ADVISE HIS U.S. PRINCIPAL TO CONTACT STATE MALAYSIAN DESK OFFICER FOR BRIEFING.

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